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FISCAL IMPACT STATEMENT

LS 6150

BILL NUMBER: HB 1016

NOTE PREPARED: Mar 2, 2006

BILL AMENDED: Feb 21, 2006

SUBJECT: Pretrial Fees.

FIRST AUTHOR: Rep. Ayres

FIRST SPONSOR: Sen. Bray

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill authorizes a court to require a person charged with an offense for which the person has a prior conviction who is placed on bail and supervised by a probation officer or pretrial services agency to pay a pretrial services fee to defray the cost of supervision by the probation department or pretrial services agency if the person has the financial ability to pay the fee and the court finds by clear and convincing evidence that supervision by the probation department or pretrial services agency is necessary to ensure: (1) the defendant's appearance in court; or (2) the physical safety of another person or the community.

It specifies that the pretrial services fee does not apply in city or town courts. It also provides that the fee is divided between the county supplemental adult probation services fund and the county supplemental public defender services fund.

The bill prohibits the Bureau of Motor Vehicles from issuing or reinstating the license of a person who has not paid the person's pretrial services fee upon the person's conviction. It specifies that an order to pay the fee is immediately terminated if a defendant is acquitted or charges are dropped, and makes other changes relating to the collection and distribution of the fee.

(The introduced version of this bill was prepared by the Sentencing Policy Study Committee.)

Effective Date: July 1, 2006.

Explanation of State Expenditures: The bill provides that if pretrial services fees are imposed and the

defendant does not pay the fees imposed, the court may ask the Bureau of Motor Vehicles to suspend, revoke, or not issue a defendant's license. Costs for the Bureau of Motor Vehicles could increase to the extent that defendants fail to pay pretrial services fees and information needs to be tracked. However, there are no data available to indicate how many defendants may not pay imposed fees.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues: The bill would increase the amount of revenue received and available for county adult probation services and for the county supplemental public defender services fund. However, there are no data available to indicate how many people placed on pretrial supervision each year would be subject to the proposed fees. Also, the amount collected cannot be estimated because the fees would be based on the decisions of the court.

(Revised) Under the bill, the court could impose fees if the probation department or a pretrial services agency provides pretrial supervision, the defendant has been charged with an offense for which the person has a prior conviction, and the defendant has the financial ability to pay. The fees include an initial pretrial services fee ranging from \$25 to \$100, a monthly pretrial services fee of \$15 to \$30 per month, and an administrative fee of \$100.

Under the bill, 50% of the revenues from the fees would transfer to the county treasurer for deposit in a county supplemental adult probation services fund. The fund may be used to supplement adult probation services or to supplement the salaries of probation officers or the salaries of employees of pretrial services agencies. Funds in county supplemental adult probation services funds do not revert to any other fund.

The other 50% of the revenues from the fees would transfer to the county treasurer for deposit in the county supplemental public defender services fund. This fund may be used only to supplement the provision for court-appointed legal services and may not be used to replace other funding of court-appointed legal services. Funds in county supplemental public defender services funds do not revert to any other fund.

Up to 3% of the fee may be retained by the court clerk and deposited in the clerk's record perpetuation fund to defray administrative costs. Not more than 3% of the fee would be transferred on request of the county auditor to a county general fund. Also, the fees may be paid with a credit card, and any transaction charge or discount fee may be collected.

Background Information: In 2004, circuit, superior, county, and probate courts reported spending \$51.4 M on adult probation services and collecting \$15.6 M in adult probation supervision fees, which are deposited in county funds. Also, in 2004, circuit, superior, county, and probate courts reported spending \$9.3 M for public defender and staff expenditures, and collecting \$1.8 M for supplemental public defender fees, which are deposited in county funds.

Pretrial services agencies are used in Allen and Lake Counties; all other counties have probation departments.

State Agencies Affected: Bureau of Motor Vehicles.

Local Agencies Affected: Trial Courts; City, town, and county treasurers.

Information Sources: Indiana Supreme Court, Division of State Court Administration. Website: <http://www.in.gov/judiciary/admin/reports/>.

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